

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|-----------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | 8:05CR294 |
| |) | |
| v. |) | |
| |) | |
| LYNN C. BOWERS, |) | ORDER |
| |) | |
| Defendant. |) | |
| _____ |) | |

This matter is before the Court on the report and recommendation of the magistrate judge (Filing No. 44), in which he recommends that the motion of defendant to suppress certain evidence (Filing No. 26) be denied. The defendant has timely filed a statement of appeal of the magistrate judge's report and recommendation (Filing No. 45), together with a brief in support of his statement of appeal (Filing No. 46).

Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review, including a review of the transcript of the hearing, consideration of the briefs filed by the parties, including defendant's statement of appeal, and the report and recommendation of the magistrate judge. In ruling on that report and recommendation, the Court is mindful that the magistrate judge had the opportunity to observe the witnesses in making his rulings, particularly with respect to credibility. A review of the transcript satisfies the Court that the magistrate judge has appropriately weighed the credibility of the witnesses and finds

that the report and recommendation should be accepted and affirmed, and defendant's motion to suppress will be denied. Accordingly,

IT IS ORDERED:

1) The report and recommendation of the magistrate judge is approved and adopted;

2) Defendant's objection to said report and recommendation is overruled.

3) Trial of this matter is scheduled for:

Monday, April 24, 2006, at 9 a.m.

Courtroom No. 5, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska, or as soon thereafter as may be called by the Court. The ends of justice will be served by continuing this case and outweigh the interests of the public and the defendant in a speedy trial. The additional time between February 28, 2006, and April 24, 2006, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 28th day of February, 2006.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court